

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 514I.4 and 514I.5, the Department of Human Services proposes to amend Chapter 86, “Healthy and Well Kids in Iowa (HAWK-I) Program,” Iowa Administrative Code.

These amendments reflect programmatic changes affecting the HAWK-I program as required by the federal Patient Protection and Affordable Care Act. These amendments implement the Modified Adjusted Gross Income (MAGI) methodology. MAGI is a national standard by which all states must consider family income when determining eligibility for participation in insurance affordability programs (Medicaid, Children’s Health Insurance Program (CHIP), and plans offered through the Health Insurance Marketplace/Exchange). The amendments implement a single application and streamlined eligibility process required for all insurance affordability programs and the requirement to verify information to establish income through data matches to the greatest extent possible. These amendments also align references to the general eligibility requirements of the Medicaid program when applicable.

Any interested person may make written comments on the proposed amendments on or before June 4, 2013. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

These amendments do not provide for waivers in specified situations due to requirements set forth in the federal Patient Protection and Affordable Care Act. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 514I.

The following amendments are proposed.

ITEM 1. Amend **441—Chapter 86**, Preamble, as follows:

PREAMBLE

These rules define and structure the department of human services healthy and well kids in Iowa (HAWK-I) program. The purpose of this program is to provide transitional health and dental care coverage to ~~uninsured~~ children who are ineligible for Title XIX (Medicaid) assistance as set forth in this chapter. The program is implemented and administered in compliance with Title XXI of the federal Social Security Act. The rules establish requirements for the third-party administrator responsible for the program administration and for the participating health and dental plans that will be delivering services to the enrollees.

ITEM 2. Amend rule **441—86.1(514I)**, definitions of “Applicant” and “Family,” as follows:

“*Applicant*” shall mean anyone in the household, including all parents, spouses, adults and children under the age of 19 who are counted in the HAWK-I family size according to the modified adjusted gross income methodology and who are listed on the application or renewal form.

“*Family*” shall mean anyone in the household, including all parents, spouses, adults and children under the age of 19 who are counted in the HAWK-I family size according to the modified adjusted gross income methodology.

ITEM 3. Rescind the definitions of “Earned income,” “Gross countable income,” “Gross income,” “Recurring lump-sum income,” “Regions,” “Self-employed” and “Unearned income” in rule **441—86.1(514I)**.

ITEM 4. Adopt the following new definitions in rule **441—86.1(514I)**:

“*Countable income*” shall mean earned and unearned income of the family according to the modified adjusted gross income methodology.

“*Health Insurance Marketplace*” or “*Exchange*” shall mean the entity authorized under 42 U.S.C. Section 18031(d)(4)(F) as amended to April 1, 2013, to evaluate and determine eligibility of applicants for Medicaid, the Children’s Health Insurance Program (CHIP), and other health programs.

“*Modified adjusted gross income*” shall mean the methodology prescribed in 42 U.S.C. Section 1396a(e)(14) and 42 CFR 435.603 as amended to April 1, 2013.

ITEM 5. Amend rule 441—86.2(514I), introductory paragraph, as follows:

441—86.2(514I) Eligibility factors. The decision with respect to eligibility shall be based primarily on electronic data matches and information furnished by the applicant, the enrollee, or a person acting on behalf of the applicant or enrollee. A child must meet the following eligibility factors to participate in the HAWK-I program.

ITEM 6. Amend paragraph **86.2(2)“a”** as follows:

a. ~~Gross countable~~ Countable income. In determining initial and ongoing eligibility for the HAWK-I program, ~~gross~~ countable income shall not exceed 300 percent of the federal poverty level for a family of the same size. Countable income shall be determined using the modified adjusted gross income methodology.

ITEM 7. Rescind paragraph **86.2(2)“b.”**

ITEM 8. Reletter paragraphs **86.2(2)“c”** and “d” as **86.2(2)“b”** and “c.”

ITEM 9. Amend relettered paragraph **86.2(2)“b”** as follows:

b. Verification of income. Income shall be verified through electronic data matches when possible or otherwise verified using the best information available. ~~For example, earnings from the 30 days before the date of application may be used to verify earned income if it is representative of the income expected in future months.~~

(1) No change.

~~(2) Unearned income shall be verified through data matches when possible, award letters, warrant copies, or other acceptable means of verification.~~

~~(3)~~ (2) ~~Self~~ If self-employment income ~~shall be verified using~~ cannot be verified through electronic means, business records or income tax returns from the previous year can be used if they are representative of anticipated earnings. If business records or tax returns from the previous year are not representative of anticipated earnings, an average of the business records or tax returns from the previous two or three years may be used if that average is representative of anticipated earnings.

~~(4) When a child who has been determined ineligible for Medicaid is referred to the HAWK-I program, the third-party administrator shall use the income amount used by the Medicaid program unless rules in this chapter require the income to be treated differently.~~

ITEM 10. Rescind subrule 86.2(3) and adopt the following new subrule in lieu thereof:

86.2(3) Family size. For purposes of establishing initial and ongoing eligibility under the HAWK-I program, the family size shall be determined according to the modified adjusted gross income methodology.

ITEM 11. Amend subrules 86.2(4) to 86.2(7), 86.2(11) and 86.2(12) as follows:

86.2(4) Uninsured status. The child must be uninsured.

a. A child who is currently enrolled in an individual or group health plan is not eligible to participate in the HAWK-I program. However, a child who is enrolled in a plan shall not be considered insured for purposes of the HAWK-I program if:

(1) The plan provides coverage only for a specific disease or service (such as a vision, dental, or cancer policy), or

(2) The child does not have reasonable geographic access to care under that plan. “Reasonable geographic access” means that the plan or an option available under the plan does not have service area limitations or, if the plan has service area limitations, the child lives within 30 miles or 30 minutes of a network primary care provider, or

(3) The child lost Medicaid eligibility solely because of the loss of income disregards from the implementation of the modified adjusted gross income methodology. If a child loses eligibility because of such loss of income disregards, the child may be covered under the HAWK-I program for up to 12 months following the loss of Medicaid eligibility regardless of the presence of other health insurance.

b. and c. No change.

86.2(5) Ineligibility for Medicaid. The child shall not be receiving Medicaid or eligible to receive Medicaid ~~if application were made~~ except when the child would be required to meet a spenddown under the medically needy program in accordance with the provisions of 441—subrule 75.1(35).

~~a.—A child who would be eligible for Medicaid except for the parent’s failure or refusal to cooperate in establishing initial or ongoing eligibility shall not be eligible for coverage under the HAWK-I program.~~

~~b.—Children who are excluded from the Medicaid household due to the income or resources of the child may participate in the HAWK-I program if otherwise eligible.~~

86.2(6) Iowa residency. ~~The child shall be a resident of the state of Iowa. A resident of Iowa is a person:~~ Residency in Iowa is a condition of eligibility for the HAWK-I program. Residency shall be established in accordance with rule 441—75.10(249A).

~~a.—Who is living in Iowa voluntarily with the intention of making that person’s home in Iowa and not for a temporary purpose; or~~

~~b.—Who, at the time of application, is not receiving assistance from another state and entered Iowa with a job commitment or to seek employment or who is living with parents or guardians who entered Iowa with a job commitment or to seek employment.~~

86.2(7) Citizenship and alien immigration status. ~~The~~ To be eligible for the HAWK-I program, the child shall be a citizen or lawfully admitted alien immigrant. The criteria established under 441—subrule 75.11(2) shall be followed when determining whether a lawfully admitted alien immigrant child is eligible to participate in the HAWK-I program.

a. The citizenship or alien immigration status of the parents or other responsible person shall not be considered when determining the eligibility of the child to participate in the program.

b. As a condition of eligibility for HAWK-I:

(1) All applicants shall attest to their citizenship status by signing the application form, which contains a citizenship declaration. ~~EXCEPTION: Applicants applying pursuant to subrule 86.3(6) shall instead complete and sign Form 470-2549, Statement of Citizenship Status.~~

(2) When a child under the age of 19 is not living independently, the child's parent or other responsible person with whom the child lives shall be responsible for attesting to the child's citizenship or alien immigration status and for providing any required proof of the status.

c. Except as provided in 441—paragraph 75.11(2) "*f*," applicants or enrollees for whom an attestation of United States citizenship has been made pursuant to paragraph 86.2(7) "*b*" shall present satisfactory documentation of citizenship or nationality as defined in 441—paragraphs 75.11(2) "*d*," "*e*," "*g*," and "*h*," and "*i*."

d. An applicant or enrollee shall have a reasonable opportunity period to obtain and provide proof of citizenship and nationality: ~~in accordance with 441—paragraph 75.11(2) "*c*."~~ For the purposes of this requirement, the "reasonable period" begins on the date a written request to obtain and provide proof is issued to an applicant or enrollee and continues to the date the proof is provided or to the ninetieth calendar day from the date the written request was issued.

e.—Eligibility for HAWK-I shall be approved for applicants for one reasonable period as described in paragraph 86.2(7) "*d*."

(1) ~~The reasonable period shall begin no earlier than the first day of the month following the month in which a valid application is received and shall continue until the end of the month in which the ninetieth day occurs or until acceptable documentary evidence is provided, whichever is earlier. However, coverage may be canceled before the end of the reasonable period when another eligibility requirement is not met.~~

(2) ~~For the purposes of HAWK-I eligibility, an applicant who received coverage during a reasonable period as a Medicaid applicant shall not be granted coverage pursuant to this paragraph for a second reasonable period.~~

f.—~~Failure to provide acceptable documentary evidence by the ninetieth calendar day from the date the written request was issued pursuant to paragraph 86.2(7) "*d*" shall be the basis for cancellation of coverage under HAWK-I for the child.~~

g. e. Failure to provide acceptable documentary evidence for a child shall not affect the eligibility of other children in the family for whom acceptable documentary evidence has been provided.

86.2(11) *Preexisting conditions.* ~~The child shall not be denied eligibility based on the presence of a preexisting medical or dental condition.~~

86.2(12) 86.2(11) *Furnishing a social security number.*

a. As a condition of eligibility and in accordance with rule 441—75.7(249A), a social security number or proof of application for the number if the number has not been issued or is not known must be furnished for a child for whom coverage under HAWK-I is being requested or received.

(1) ~~When proof of application for a social security number has been provided, the number must be reported upon receipt.~~

(2) ~~The requirement to provide a social security number does not apply if the person refuses to obtain a social security number because of well-established religious objections. The term "well-established religious objections" means that the person is a member of a recognized religious sect or a division of a recognized religious sect and adheres to the tenets or teachings of the sect or division, and for that reason is conscientiously opposed to applying for or using a national identification number.~~

b.—Assistance shall not be denied, delayed, or discontinued pending the issuance or verification of a social security number when the applicant or enrollee is cooperating in providing information necessary for issuance of the number.

c.—The mother of a newborn child shall have until the second month following the mother's discharge from the hospital to apply for a social security number for the child.

d.—A social security number may be requested for a person in the family for whom coverage under HAWK-I is not being requested or received, but provision of the number shall not be a condition of eligibility for the applicant or enrollee.

ITEM 12. Amend rule 441—86.3(514I) as follows:

441—86.3(514I) Application process.

86.3(1) Who may apply. Each person wishing to do so shall have the opportunity to apply without delay for the HAWK-I program in accordance with rule 441—76.1(249A). ~~When the request is made in person, the requester shall immediately be given an application form. When a request is made that the application form be mailed, it shall be sent in the next outgoing mail.~~

a.—Child lives with parents. When the child lives with the child's parents, including stepparents and adoptive parents, the parent shall file the application on behalf of the child unless the parent is unable to do so.

If the parent is unable to act on the child's behalf because the parent is incompetent or physically disabled, another person may file the application on behalf of the child. The responsible person shall be a family member, friend or other person who has knowledge of the family's financial affairs and circumstances and a personal interest in the child's welfare or a legal representative such as a conservator, guardian, executor or someone with power of attorney. The responsible person shall sign the application form and assume the responsibilities of the incompetent or disabled parent in regard to the application process and ongoing eligibility determinations.

b.—Child lives with someone other than a parent. When the child lives with someone other than a parent (e.g., another relative, friend, guardian), the person who has assumed responsibility for the care of the child may apply on the child's behalf. This person shall sign the application form and assume responsibility for providing all information necessary to establish initial and ongoing eligibility for the child.

c.—Child lives independently or is married. When a child under the age of 19 lives in an independent living situation or is married, the child may apply on the child's own behalf, in which case, the child shall be responsible for providing all information necessary to establish initial and ongoing eligibility. If the child is married, both the child and the spouse shall sign the application form.

86.3(2) Application form Applications. An application for the HAWK-I program shall be submitted on Comm. 156, HAWK-I Application, or on Form 470-4016, HAWK-I Electronic Application Summary and Signature, ~~unless the family applies for the Medicaid program first filed in accordance with rule 441—76.1(249A).~~

*a.—*When an application has been filed for the Medicaid program in accordance with the provisions of rule 441—76.1(249A) and Medicaid eligibility does not exist in accordance with the provisions of rule 441—75.1(249A), or the family must meet a spenddown in accordance with the provisions of 441—subrule 75.1(35) before the child can attain eligibility, the Medicaid application shall be used to establish eligibility for the HAWK-I program in lieu of the HAWK-I Application, Comm. 156, or Form 470-4016, HAWK-I Electronic Application Summary and Signature.

*b.—*Applications may be obtained by telephoning the toll-free telephone number of the third-party administrator or by accessing the Web site at www.hawk-i.org.

86.3(3) Place of filing. An application for the HAWK-I program shall may be filed with the third-party administrator responsible for making the eligibility determination. ~~Any through an Internet Web site, by telephone, through other electronic means, or in any local or area office of the department of human services, an exchange, disproportionate share hospital, federally qualified health center, or other facilities facility in which outstationing activities are provided, school nurse, Head Start, maternal and child health center, WIC office, or other entity may accept the application. However, all applications shall be forwarded to the third-party administrator.~~

86.3(4) Application filing date Date and method of filing.

a.—Date of filing. The application is considered filed on the date an identifiable application is received by the third-party administrator or the department. ~~An identifiable application is an application containing a legible name, address, and signature when received in accordance with rule 441—76.1(249A).~~

b.—Applications received after business hours. When an application is received after business hours, it will be considered received on the next business day.

~~*c. Medicaid applications referred to the HAWK-I program.* When the family has applied for Medicaid first and the department makes a referral to the third-party administrator, the date the Medicaid application was originally filed with the department shall be the filing date.~~

86.3(5) No change.

86.3(6) *Application not required.*

a. An application shall not be required when a child becomes ineligible for Medicaid and the local office of the department makes a referral to the HAWK-I program.

~~(1) A referral to the HAWK-I program pursuant to subrule 86.4(3) or 86.4(4) shall be accepted in lieu of an application.~~

~~(2) The original Medicaid application or the last review form that is on file in the local office of the department, whichever is more current, shall suffice to meet the signature requirements.~~

b. A new application shall not be required when an eligible child is added to an existing HAWK-I eligible group.

c. A new application shall not be required when a child moves between supplemental dental-only coverage as specified in rule 441—86.20(514I) and full medical and dental coverage.

86.3(7) *Information and verification procedure.* The decision with respect to eligibility shall be based primarily on information furnished by the applicant, enrollee, or person acting on behalf of the applicant or enrollee and verified through electronic data matches whenever possible.

a. ~~The third-party administrator shall notify the applicant, enrollee, or person acting on behalf of the applicant or enrollee shall be notified~~ in writing of additional information or verification that is required to establish eligibility. ~~The third-party administrator shall provide this notice may be provided~~ personally, by U.S. mail, by e-mail, or by facsimile.

b. Failure to supply the information or verification or refusal to authorize the third-party administrator to secure the information shall serve as a basis for rejection of the application or cancellation of coverage. If the requested information or authorization is received within 14 calendar days of the notice of decision on an application or within 14 calendar days of the effective date of cancellation for enrollees, the information or authorization shall be acted upon as though it had been provided timely. If the fourteenth calendar day falls on a weekend or state holiday, the applicant or enrollee shall have until the next business day to provide the information.

c. The applicant, enrollee, or person acting on behalf of the applicant or enrollee shall have 10 working days to supply the information or verification requested ~~by the third-party administrator.~~ The ~~third-party administrator due date may extend the deadline~~ be extended for a reasonable period when the applicant, enrollee, or person acting on behalf of the applicant or enrollee is making every effort but is unable to secure the required information or verification from a third party.

86.3(8) *Time limit for decision.* ~~The third-party administrator shall make a decision~~ Decisions regarding the applicant's eligibility to participate in the HAWK-I program shall be made within ten working days from the date of receiving the completed application and all necessary information and verification unless the application cannot be processed ~~within the period for a reason that is reasons~~ beyond the control of the department or third-party administrator.

~~*a.* EXCEPTION: When the application is referred for a Medicaid eligibility determination and Medicaid eligibility is denied, the third-party administrator shall determine HAWK-I eligibility no later than ten working days from the date the administrator receives the notice of Medicaid denial unless additional verification is needed.~~

~~*b.* "Day one" of the ten-day period shall mean starts~~ the first working day following the date of receipt of a completed application and all necessary information and verification.

86.3(9) No change.

86.3(10) *Waiting lists.* When the department has established that all of the funds appropriated for this program are obligated, ~~the third-party administrator shall deny~~ all subsequent applications for HAWK-I coverage shall be denied unless Medicaid eligibility exists.

a. ~~The department or the third-party administrator shall mail a notice of decision. The notice shall state to the applicant that states:~~

(1) The applicant meets the eligibility requirements but that no funds are available and that the applicant will be placed on a waiting list, or

(2) The ~~person~~ applicant does not meet eligibility requirements. ~~In, in~~ which case, the applicant shall not be put on a waiting list.

b. Prior to an applicant's being denied or placed on the waiting list, ~~the third-party administrator shall refer the application to the Medicaid program for an eligibility determination. If Medicaid eligibility exists, the department shall approve the child for Medicaid coverage in accordance with 441—86.4(514I) it must be established that the child is not eligible for Medicaid.~~

c. ~~The third-party administrator shall enter applicants~~ Applicants shall be placed on the waiting list on the basis of the date an identifiable application form specified in ~~subrule 86.3(2) rule 441—76.1(249A)~~ is date-stamped by the third-party administrator. An identifiable application is an application containing a legible name, address, and signature received.

(1) In the event that more than one application is received on the same day, ~~the third-party administrator shall enter~~ applicants shall be placed on the waiting list on the basis of the day of the month of the oldest child's birthday, the lowest number being first on the list.

(2) ~~The third-party administrator shall decide any~~ Any subsequent ties shall be determined by the month of birth of the oldest child, January being month one and the lowest number.

d. If funds become available, ~~the third-party administrator shall select~~ applicants shall be selected from the waiting list based on the order in which their names appear on the list and shall ~~notify them~~ be notified of their selection.

e. After being notified of the availability of funding, the applicant shall have 15 working days to confirm the applicant's continued interest in applying for the program and to provide any information necessary to establish eligibility. If the applicant does not confirm continued interest in applying for the program and does not provide any additional information necessary to establish eligibility within 15 working days, ~~the third-party administrator shall delete~~ the applicant's name shall be deleted from the waiting list and shall ~~contact~~ the next applicant on the waiting list shall be contacted.

~~86.3(11) Falsification of information. Rescinded IAB 11/19/08, effective 1/1/09.~~

~~86.3(12) Applications pended due to unavailability of a plan. When there is no participating health plan in the applicant's county of residence, the application shall be held until a plan is available. The application shall be processed when a plan becomes available and coverage shall be effective the first day of the month the plan becomes available.~~

ITEM 13. Amend rule 441—86.4(514I) as follows:

441—86.4(514I) Coordination with Medicaid.

86.4(1) *HAWK-I applicant appears eligible for Medicaid.* At the time of initial application, if it appears is determined the child may be is eligible for Medicaid in accordance with the provisions of rule 441—75.1(249A), with the exception of meeting a spenddown under the medically needy program at 441—subrule 75.1(35), a referral shall be made by the third-party administrator to the department for a determination of Medicaid eligibility as follows: the child shall be enrolled in the Medicaid program.

a. ~~The original Healthy and Well Kids in Iowa (HAWK-I) Application, Form 470-3526, or Form 470-4016, HAWK-I Electronic Application Summary and Signature Page, and copies of any accompanying information and verification shall be forwarded to the department within 24 hours, or the next working day, whichever is sooner. The third-party administrator shall maintain a copy of all documentation sent to the department and a log to track the disposition of all referrals.~~

b. ~~The third-party administrator shall notify the family that the referral has been made. The third-party administrator shall return to the family any original verification and information that was submitted with the application and retain a copy in the file record.~~

c. ~~The referral shall be considered an application for Medicaid in accordance with the provisions of rule 441—76.1(249A). The time limit for processing the referred application begins with the date the Healthy and Well Kids in Iowa (HAWK-I) Application, Form 470-3526, or Form 470-4016, HAWK-I Electronic Application Summary and Signature Page, is date-stamped as being received by the third-party administrator.~~

~~86.4(2) HAWK-I enrollee *appears* eligible for Medicaid.~~ At the time of the annual review, if it appears the child ~~may be~~ is determined eligible for Medicaid in accordance with the provisions of rule 441—75.1(249A), with the exception of meeting a spenddown under the medically needy program at 441—subrule 75.1(35), the ~~third-party administrator shall make a referral to the department for a determination of Medicaid eligibility as stated in subrule 86.4(1) above.~~ However, the child shall remain eligible for the HAWK-I program pending the Medicaid eligibility determination unless be enrolled in Medicaid effective the first day following the expiration of the 12-month certification HAWK-I enrollment period expires first.

~~86.4(3) Medicaid applicant not eligible.~~ If a child is not eligible for Medicaid under the provisions of rule 441—75.1(249A), with the exception of meeting a spenddown under the medically needy program at 441—subrule 75.1(35), or is voluntarily excluded from the Medicaid eligible group under the provisions of 441—75.59(249A) and meets the criteria specified at 86.2(5), the department shall make a referral to the third-party administrator for an eligibility determination under the HAWK-I program as follows:

~~a.~~—The department worker shall submit an electronic referral to the HAWK-I program or complete Form 470-3563, Referral to HAWK-I, and send the form and a copy of the Medicaid notice of decision to the third-party administrator.

~~b.~~—The third-party administrator shall date-stamp Form 470-3563 with the date the completed form is received.

~~c.~~—The third-party administrator shall notify the family of the referral and proceed with an eligibility determination under the HAWK-I program.

~~d.~~—The period for processing the referral begins with the day on which:

~~(1) Form 470-3563, Referral to HAWK-I, is date-stamped as received by the third-party administrator; or~~

~~(2) The third-party administrator receives the electronic referral file.~~

~~86.4(4) 86.4(3) Medicaid member becomes ineligible.~~ If a child becomes ineligible for Medicaid under the provisions of rule 441—75.1(249A), with the exception of meeting a spenddown under the medically needy program at 441—subrule 75.1(35), or is voluntarily excluded from the Medicaid eligible group under the provisions of rule 441—75.59(249A) and meets the criteria specified at subrule 86.2(5), the department shall make a referral to the third-party administrator for an eligibility determination under the HAWK-I program as follows: the child shall be enrolled in the HAWK-I program if otherwise eligible.

~~a.~~—The department worker shall submit an electronic referral to the HAWK-I program or complete Form 470-3563, Referral to HAWK-I, and send the form and a copy of the Medicaid notice of decision to the third-party administrator.

~~b.~~—The third-party administrator shall:

~~(1) Date-stamp Form 470-3563 with the date the completed form is received;~~

~~(2) Notify the family of the referral; and~~

~~(3) Proceed with an eligibility determination under the HAWK-I program.~~

~~c.~~—The period for processing the referral begins with the day on which:

~~(1) Form 470-3563, Referral to HAWK-I, is date-stamped as received by the third-party administrator; or~~

~~(2) The third-party administrator receives the electronic referral file.~~

ITEM 14. Amend rule 441—86.5(514I) as follows:

441—86.5(514I) Effective date of coverage.

86.5(1) Initial application. Coverage for a child who is determined eligible for the HAWK-I program on the basis of an initial application for either HAWK-I or Medicaid shall be effective the first day of the month following the month in which the application is filed, regardless of the day of the month the application is filed, ~~or when a plan becomes available in the applicant's county of residence.~~ However, when the child does not meet the provisions of paragraph 86.2(4) "a," coverage shall be effective the first day of the month following the month in which health insurance coverage is lost. Also, a one-month waiting period shall be imposed for a child who is subject to a monthly premium pursuant to paragraph

86.8(2) “c” when the child’s health insurance coverage ended in the month of application. EXCEPTIONS: A waiting period shall not be imposed if any of the following conditions apply:

a. to e. No change.

86.5(2) Referrals from Medicaid.

a. *Cancellation of Medicaid.* Coverage for children who are determined eligible for the HAWK-I program ~~on the basis of a referral from Medicaid~~ due to cancellation of Medicaid benefits shall be effective the first day of the month after Medicaid eligibility is lost, ~~regardless of the date of the referral~~, in order to ensure that there is no break in coverage. However, when such a child does not meet the provisions of paragraph 86.2(4) “a,” coverage shall be effective the first day of the month following the month in which health insurance coverage is lost.

b. *Denial of Medicaid.* ~~Coverage for children who are determined eligible for the HAWK-I program on the basis of a referral from Medicaid due to denial of Medicaid benefits shall be effective no earlier than the first day of the month following the month in which the Medicaid application was received in accordance with 441—subrule 76.1(2). However, when such a child does not meet the provisions of paragraph 86.2(4) “a,” coverage shall be effective the first day of the month following the month in which health insurance coverage is lost.~~ EXCEPTION: If the child lost Medicaid eligibility solely because of the loss of income disregards from the implementation of the modified adjusted gross income methodology, the child may be covered under the HAWK-I program for up to 12 months following the loss of Medicaid eligibility, regardless of the presence of other health insurance coverage.

86.5(3) and 86.5(4) No change.

ITEM 15. Rescind subrule **86.6(1)**.

ITEM 16. Renumber subrules **86.6(2) to 86.6(5)** as **86.6(1) to 86.6(4)**.

ITEM 17. Amend subrules 86.7(4) to 86.7(6) as follows:

86.7(4) Iowa residence abandoned. The child shall be canceled from the program as of the first day of the month following the month in which the child relocated to another state. Eligibility shall not be canceled when the child is temporarily absent from the state in accordance with the provisions of ~~subrule 86.2(6) 441—subrule 75.10(2)~~.

86.7(5) Eligible for Medicaid. The child shall be canceled from the program as of the first day of the month following the month in which ~~the third-party administrator is notified of Medicaid eligibility is obtained~~. If there are months during which the child is covered by both the Medicaid and HAWK-I programs, the HAWK-I program shall be the primary payor and Medicaid shall be the payor of last resort.

86.7(6) Enrolled in other health insurance coverage. The child shall be canceled from the program as of the first day of the month following the month in which the department or the third-party administrator is notified that the child has other health insurance coverage. If there are months during which the child is covered by both another insurance plan and the HAWK-I program, the other insurance plan shall be the primary payor and HAWK-I shall be the payor of last resort.

ITEM 18. Amend subrule 86.8(1) as follows:

86.8(1) Income considered. The ~~countable~~ income considered in determining the premium amount shall be the family’s ~~gross~~ countable income minus 20 percent of the family’s earned income.

ITEM 19. Amend subrule 86.8(8) as follows:

86.8(8) Unpaid premiums Program lock-out. ~~Before the child can regain coverage under the program, unpaid premiums owed for coverage received in accordance with subrule 86.8(4) within the past 24 months must be paid in full. A child who has been disenrolled from the program due to nonpayment of premiums shall be locked out of the program until the arrearage is paid in full or for a period not to exceed 90 days, whichever occurs first.~~

a. Failure to pay the unpaid premiums shall result in denial of the application if less than 90 days has elapsed since the effective date of disenrollment. EXCEPTION: The unpaid premium obligation shall be reduced to zero if upon reapplication a premium would not be assessed because the household’s income is less than 150 percent of the federal poverty level.

b. ~~If no reapplication is filed~~ the arrearage is not paid within 24 months of failing to pay a premium, the debt shall be expunged and shall no longer be owed.

ITEM 20. Amend subrule 86.9(1) as follows:

86.9(1) Review form. ~~The third-party administrator shall send the family Form 470-3526, Healthy and Well Kids in Iowa (HAWK-I) Application. A prepopulated review form on which the answers, except for income, have been completed based on the information on file shall be sent to the family. The family shall review the completed information for accuracy and fill in the income section of the form. The If family income cannot be verified through electronic data matches, the family shall be required to provide verification of current income and. The family shall sign and date the form attesting to its accuracy as part of the review process.~~

ITEM 21. Amend rule 441—86.10(514I), introductory paragraph, as follows:

441—86.10(514I) Reporting changes. Changes that may affect eligibility shall be reported timely to the department or the third-party administrator. “Timely” shall mean no later than ten working days after the change occurred. ~~“Day one” of the ten-day period shall mean~~ The ten working-day period begins the first working day following the date of the change. The parent, guardian, or other adult responsible for the child shall report the change. ~~If unless the child is emancipated, married, or otherwise in an independent living situation, in which case the child shall be responsible for reporting the change.~~

ITEM 22. Rescind subrule **86.10(1)**.

ITEM 23. Renumber subrules **86.10(2)** to **86.10(6)** as **86.10(1)** to **86.10(5)**.

ITEM 24. Renumber subrules **86.10(8)** to **86.10(10)** as **86.10(6)** to **86.10(8)**.

ITEM 25. Amend rule 441—86.11(514I) as follows:

441—86.11(514I) Notice requirements. The applicant shall be provided an adequate written notice of the decision ~~of the third-party administrator~~ regarding the applicant’s eligibility for the HAWK-I program. The enrollee shall be notified in writing of any decision that adversely affects the enrollee’s eligibility or the amount of benefits. The notice shall be timely and adequate as provided in 441—subrule 7.7(1).

ITEM 26. Amend rule 441—86.12(514I) as follows:

441—86.12(514I) Appeals and fair hearings. If the applicant or enrollee disputes a decision ~~by the third-party administrator~~ to reduce, cancel or deny participation in the HAWK-I program, the applicant or enrollee may appeal the decision in accordance with 441—Chapter 7.

ITEM 27. Amend rule 441—86.13(514I) as follows:

441—86.13(514I) Third-party administrator. The third-party administrator shall have the following responsibilities:

86.13(1) Determination of eligibility. ~~The third-party administrator shall determine eligibility~~ Eligibility for the HAWK-I program shall be determined utilizing the department’s eligibility system and in accordance with the provisions of rule 441—86.2(514I).

86.13(2) to 86.13(4) No change.

86.13(5) Application process. ~~The third-party administrator shall process applications~~ Applications shall be processed in accordance with the provisions of rule 441—86.3(514I).

a. Processing applications and mailing of approvals and denials shall be completed within ten working days of receipt of the application and all necessary information and verification unless the application cannot be processed within this period for a reason beyond the control of the third-party administrator.

b. Original verification information shall be returned to the applicant or enrollee upon completion of review.

~~86.13(6) Tracking of applications.~~ The third-party administrator shall track and maintain applications. This includes, but is not limited to, the following procedures:

~~a. Date-stamping all applications with the date of receipt.~~

~~b. c. Screening applications Applications shall be screened for completeness, and requesting in writing any additional Additional information or verification necessary to establish eligibility may be requested in writing. All information or verification of information attained shall be logged.~~

~~e. Entering all applications received into the data system with an identifier status of pending, approved, or denied.~~

~~d. Referring applications to the county office of the department, when appropriate, and receiving application referrals from the department.~~

~~e. Rescinded IAB 7/9/03, effective 7/1/03.~~

~~f. d. Notifying the health Health and dental plans shall be notified when the number of enrollees who speak the same non-English language equals or exceeds 10 percent of the number of enrollees in the health or dental plan.~~

~~86.13(7) 86.13(6) Effective date of coverage.~~ The third-party administrator shall establish effective date of coverage shall be established in accordance with the provisions of rule 441—86.5(514I).

~~86.13(8) 86.13(7) Selection of health or dental plan.~~ The third-party administrator shall provide participating health and dental plan information to families of eligible children by telephone or mail and, if necessary, offer unbiased assistance in the selection of a health or dental plan in accordance with the provisions of rule 441—86.6(514I).

~~86.13(9) 86.13(8) Enrollment.~~ The third-party administrator shall notify participating health and dental plans of enrollments.

~~86.13(10) 86.13(9) Disenrollments.~~ The third-party administrator shall disenroll an enrollee when the enrollee's eligibility for the HAWK-I program is canceled in accordance with the provisions of rule 441—86.7(514I). The third-party administrator shall notify the participating health and dental plans when an enrollee is disenrolled.

~~86.13(11) 86.13(10) Annual reviews of eligibility.~~ The third-party administrator shall annually review eligibility Eligibility shall be reviewed annually in accordance with the provisions of rules 441—86.2(514I) and 441—86.9(514I).

~~86.13(12) 86.13(11) Acting on reported changes.~~ The third-party administrator shall ensure that all changes reported by the HAWK-I enrollee in accordance with rule 441—86.10(514I) are acted upon no later than ten working days from the date the change is reported.

~~86.13(13) 86.13(12) Premiums.~~ The third-party administrator shall:

~~a. Calculate premiums in accordance with the provisions of rule 441—86.8(514I).~~

~~b. Collect HAWK-I premium payments. The funds shall be deposited into an interest-bearing account maintained by the department for periodic transmission of the funds and any accrued interest to the HAWK-I trust fund in accordance with state accounting procedures.~~

~~c. Track the status of the enrollee premium payments and provide the data to the department.~~

~~d. Mail a reminder notice to the family if the premium is not received by the due date.~~

~~86.13(14) 86.13(13) Notices to families.~~ The third-party administrator shall develop and provide timely Timely and adequate approval, denial, and cancellation notices to families that clearly explain the action being taken in regard to an application or an existing enrollment shall be issued to the family. Denial and cancellation notices shall clearly explain the appeal rights of the applicant or enrollee. All notices shall be available in English and Spanish.

~~86.13(15) 86.13(14) Records.~~ The third-party administrator shall at a minimum maintain the following records:

~~a. All records required by the department and the department of inspections and appeals.~~

~~b. Records which identify transactions with or on behalf of each enrollee by social security number or other unique identifier.~~

~~c. Application, case and financial records.~~

d. All other records as required by the department in determining compliance with any federal or state law or rule or regulation promulgated by the United States Department of Health and Human Services or by the department.

~~86.13(16)~~ **86.13(15)** *Confidentiality.* The third-party administrator shall protect and maintain the confidentiality of HAWK-I applicants and enrollees in accordance with 441—Chapter 9.

~~86.13(17)~~ **86.13(16)** *Reports to the department.* The third-party administrator shall submit reports as required by the department.

~~86.13(18)~~ **86.13(17)** *Systems.* The third-party administrator shall maintain data files that are compatible with the department's and the health plans' data files and shall make the system accessible to department staff.

ITEM 28. Amend subrule 86.15(2) as follows:

86.15(2) *Services.* The participating health or dental plan shall provide coverage for the services specified in rule 441—86.14(514I) to all children determined eligible by the third-party administrator.

a. The participating health or dental plan shall make services it provides to HAWK-I enrollees at least as accessible to the enrollees (in terms of timeliness, duration and scope) as those services are accessible to other commercial enrollees in the area served by the health or dental plan.

b. Participating health plans shall ensure that emergency services (inpatient and outpatient) are available for treatment of an emergency medical condition 24 hours a day, seven days a week, either through the health plan's own providers or through arrangements with other providers.

c. If a participating health or dental plan does not provide statewide coverage, the health or dental plan shall participate in every county within the region in which the health or dental plan has contracted to provide services in which it is licensed and in which a provider network has been established. ~~Regions are specified in rule 441—86.1(514I).~~

ITEM 29. Amend paragraph **86.15(7)“c”** as follows:

c. Establishes time frames which ensure that appeals be resolved within ~~60~~ 45 days, except for appeals which involve emergency medical conditions, which shall be resolved within time frames appropriate to the situations.

ITEM 30. Amend subrule **86.19(1)**, definition of “Administrative error,” as follows:

“*Administrative error*” means an action of the department or the HAWK-I third-party administrator that results in incorrect payment of benefits, including premiums paid to a health or dental plan, due to one or more of the following circumstances:

1. Misfiled or lost form or document.
2. Error in typing or copying.
3. Computer input error.
4. Mathematical error.
5. Failure to determine eligibility correctly when all essential information was available to the department or the HAWK-I third-party administrator.
6. Failure to request essential verification necessary to make an accurate eligibility determination.
7. Failure to make timely revision in eligibility following a change in policy requiring application of the policy change as of a specific date.
8. Failure to issue timely notice to cancel benefits that results in benefits continuing in error.
9. ~~Failure of the department to provide correct information to the HAWK-I third-party administrator regarding a child's Medicaid eligibility.~~

ITEM 31. Amend subrule 86.20(3) as follows:

86.20(3) *Premiums.* Premiums for participation in the supplemental dental-only plan are assessed as follows:

- a. No premium is charged to families who meet the provisions of paragraph 86.8(2) “a.”
- b. If the family's gross countable income is equal to or exceeds 150 percent of the federal poverty level but does not exceed 200 percent of the federal poverty level for a family of the same size, the premium is \$5 per child per month with a \$10 monthly maximum per family.

c. If the family's gross countable income exceeds 200 percent of the federal poverty level but does not exceed 250 percent of the federal poverty level for a family of the same size, the premium is \$10 per child per month with a \$15 monthly maximum per family.

d. If the family's gross countable income exceeds 250 percent of the federal poverty level but does not exceed 300 percent of the federal poverty level for a family of the same size, the premium is \$15 per child per month with a \$20 monthly maximum per family.

e. and *f.* No change.